

Conference Engrossed

State of Arizona
Senate
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First Regular Session
2005

CHAPTER 312

SENATE BILL 1240

AN ACT

AMENDING SECTIONS 28-673, 28-1301, 28-1321 AND 28-1383, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3.1; AMENDING SECTIONS 28-1441, 28-1461, 28-1463, 28-1464, 28-3159, 28-3166, 28-3319, 28-3320 AND 28-3322, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO DRIVING UNDER THE INFLUENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-673, Arizona Revised Statutes, is amended to
3 read:

4 28-673. Traffic accidents; implied consent; tests

5 A. A person who operates a motor vehicle within this state gives
6 consent to a test or tests of the person's blood, breath, urine or other
7 bodily substance for the purposes of determining alcohol concentration or
8 drug content if the person is involved in a traffic accident resulting in
9 death or serious physical injury as defined in section 13-105 and a law
10 enforcement officer has probable cause to believe that the person caused the
11 accident or the person is issued a citation for a violation of any provision
12 of this article, article 2, 3 or 5 through 15 of this chapter or chapter 4 of
13 this title.

14 B. The test or tests chosen by the law enforcement agency shall be
15 administered at the direction of a law enforcement officer who has reasonable
16 grounds to believe that the person was involved in a traffic accident
17 resulting in death or serious physical injury as defined in section 13-105
18 and who has probable cause to believe that the person caused the accident or
19 the person was issued a citation for a violation of any provision of this
20 article, article 2, 3 or 5 through 15 of this chapter or chapter 4 of this
21 title.

22 C. After a determination is made that a person was involved in a
23 traffic accident resulting in death or serious physical injury as defined in
24 section 13-105 and the officer has probable cause to believe that the person
25 caused the accident or the person was issued a citation for a violation of
26 any provision of this article, article 2, 3 or 5 through 15 of this chapter
27 or chapter 4 of this title, the person may be requested to submit to and
28 successfully complete any test or tests prescribed by subsection A of this
29 section, and if the person refuses, the person shall be informed that the
30 person's license or permit to drive will be suspended or denied for twelve
31 months, or for two years for a second or subsequent refusal in a period of
32 sixty months, unless the person expressly agrees to submit to and
33 successfully completes the test or tests. A failure to expressly agree to
34 the test or successfully complete the test is deemed a refusal. The person
35 shall also be informed that if the test results show a blood or breath
36 alcohol concentration of 0.08 or more, or if the results show a blood or
37 breath alcohol concentration of 0.04 or more and the person was driving or in
38 actual physical control of a commercial motor vehicle, the person's license
39 or permit to drive will be suspended or denied for not less than ninety
40 consecutive days.

41 D. If a person refuses to submit to the test designated by the law
42 enforcement agency as provided in subsection B of this section:

43 1. The test shall not be given, except as provided in section 28-1388,
44 subsection E or pursuant to a search warrant.

1 2. The law enforcement officer directing the administration of the
2 test shall:

3 (a) File a certified report of the refusal with the department.

4 (b) On behalf of the department, serve an order of suspension on the
5 person that is effective fifteen days after the date the order is served.

6 (c) Require the immediate surrender of any license or permit to drive
7 that is issued by this state and that is in the possession or control of the
8 person.

9 (d) If the license or permit is not surrendered, state the reason why
10 it is not surrendered.

11 (e) If a valid license or permit is surrendered, issue a temporary
12 driving permit that is valid for fifteen days.

13 (f) Forward the certified report of refusal, a copy of the completed
14 notice of suspension, a copy of any completed temporary permit and any driver
15 license or permit taken into possession under this section to the department
16 within five days after the issuance of the notice of suspension.

17 E. Section 28-1321, subsections E through P apply to any test
18 prescribed by this section and to any person who refuses to submit to a test
19 prescribed by this section, except that:

20 1. The certified report shall state the law enforcement officer's
21 reasonable grounds to believe that the person was involved in a traffic
22 accident resulting in death or serious physical injury as defined in section
23 13-105 and the law enforcement officer's probable cause to believe that the
24 person caused the accident or the person was issued a citation for a
25 violation of any provision of this article, article 2, 3 or 5 through 15 of
26 this chapter or chapter 4 of this title.

27 2. The certified report shall be filed pursuant to subsection D of
28 this section.

29 3. The scope of the hearing shall include the law enforcement
30 officer's probable cause to believe that the person was involved in a traffic
31 accident resulting in death or serious physical injury as defined in section
32 13-105 and the law enforcement officer's probable cause to believe that the
33 person caused the accident or the person was issued a citation for a
34 violation of any provision of this article, article 2, 3 or 5 through 15 of
35 this chapter or chapter 4 of this title.

36 F. A person who is dead, unconscious or otherwise in a condition
37 rendering the person incapable of refusal is deemed not to have withdrawn the
38 consent provided by subsection A of this section and the test or tests shall
39 be administered.

40 Sec. 2. Section 28-1301, Arizona Revised Statutes, is amended to read:

41 28-1301. Definitions

42 In this chapter, unless the context otherwise requires:

43 1. "Certified ignition interlock device" means an ignition interlock
44 device that is certified pursuant to article 5 of this chapter.

1 2. "Commercial motor vehicle" means a motor vehicle or combination of
2 motor vehicles used to transport passengers or property if the motor vehicle
3 either:

4 (a) Has a gross combined weight rating of twenty-six thousand one or
5 more pounds inclusive of a towed unit with a gross vehicle weight rating of
6 more than ten thousand pounds.

7 (b) Has a gross vehicle weight rating of twenty-six thousand one or
8 more pounds.

9 (c) Is a school bus.

10 (d) Is a bus.

11 (e) Is used in the transportation of materials found to be hazardous
12 for the purposes of the hazardous materials transportation act (49 United
13 States Code sections 5101 through 5127) and is required to be placarded under
14 49 Code of Federal Regulations section 172.504, as adopted by the department
15 pursuant to chapter 14 of this title.

16 3. "Education" means a program in which a person participates in at
17 least sixteen hours of classroom instruction relating to alcohol or other
18 drugs.

19 4. "Ignition interlock device" means a device that IS BASED ON ALCOHOL
20 SPECIFIC ELECTROCHEMICAL FUEL SENSOR TECHNOLOGY THAT MEETS THE NATIONAL
21 HIGHWAY TRAFFIC SAFETY ADMINISTRATION SPECIFICATIONS THAT connects a breath
22 analyzer to a motor vehicle's ignition system, that is constantly available
23 to monitor the concentration by weight of alcohol in the breath of any person
24 attempting to start the motor vehicle by using its ignition system and that
25 deters starting the motor vehicle by use of its ignition system unless the
26 person attempting to start the motor vehicle provides an appropriate breath
27 sample for the device and the device determines that the concentration by
28 weight of alcohol in the person's breath is below a preset level.

29 5. "INSTALLER" MEANS A PERSON WHO INSTALLS IGNITION INTERLOCK DEVICES
30 AND PROVIDES SERVICES RELATED TO IGNITION INTERLOCK DEVICES.

31 ~~5-~~ 6. "License" means any license, temporary instruction permit or
32 temporary license issued under the laws of this state or any other state
33 pertaining to the licensing of persons to operate motor vehicles.

34 7. "MANUFACTURER" MEANS A PERSON WHO OFFERS IGNITION INTERLOCK DEVICES
35 FOR INSTALLATION IN MOTOR VEHICLES IN THIS STATE.

36 ~~6-~~ 8. "Screening" means a preliminary interview and assessment of an
37 offender to determine if the offender requires alcohol or other drug
38 education or treatment.

39 9. "TAMPERING" MEANS AN OVERT OR CONSCIOUS ATTEMPT TO PHYSICALLY
40 DISABLE, CIRCUMVENT OR OTHERWISE DISCONNECT THE CERTIFIED IGNITION INTERLOCK
41 DEVICE FROM ITS POWER SOURCE THAT ALLOWS THE OPERATOR TO START THE ENGINE
42 WITHOUT TAKING AND PASSING THE REQUISITE BREATH TEST.

43 ~~7-~~ 10. "Treatment" means a program consisting of at least twenty
44 hours of participation in a group setting dealing with alcohol or other drugs
45 in addition to the sixteen hours of education.

1 Sec. 3. Section 28-1321, Arizona Revised Statutes, is amended to read:
2 28-1321. Implied consent; tests; refusal to submit to test;
3 order of suspension; hearing; review; temporary
4 permit; notification of suspension; special ignition
5 interlock restricted driver license

6 A. A person who operates a motor vehicle in this state gives consent,
7 subject to section 4-244, paragraph 33 or section 28-1381, 28-1382 or
8 28-1383, to a test or tests of the person's blood, breath, urine or other
9 bodily substance for the purpose of determining alcohol concentration or drug
10 content if the person is arrested for any offense arising out of acts alleged
11 to have been committed in violation of this chapter or section 4-244,
12 paragraph 33 while the person was driving or in actual physical control of a
13 motor vehicle while under the influence of intoxicating liquor or drugs. The
14 test or tests chosen by the law enforcement agency shall be administered at
15 the direction of a law enforcement officer having reasonable grounds to
16 believe that the person was driving or in actual physical control of a motor
17 vehicle in this state either:

18 1. While under the influence of intoxicating liquor or drugs.

19 2. If the person is under twenty-one years of age, with spirituous
20 liquor in the person's body.

21 B. After an arrest a violator shall be requested to submit to and
22 successfully complete any test or tests prescribed by subsection A of this
23 section, and if the violator refuses the violator shall be informed that the
24 violator's license or permit to drive will be suspended or denied for twelve
25 months, or for two years for a second or subsequent refusal within a period
26 of sixty months, unless the violator expressly agrees to submit to and
27 successfully completes the test or tests. A failure to expressly agree to
28 the test or successfully complete the test is deemed a refusal. The violator
29 shall also be informed that if the test results show a blood or breath
30 alcohol concentration of 0.08 or more, or if the results show a blood or
31 breath alcohol concentration of 0.04 or more and the violator was driving or
32 in actual physical control of a commercial motor vehicle, the violator's
33 license or permit to drive will be suspended or denied for not less than
34 ninety consecutive days.

35 C. A person who is dead, unconscious or otherwise in a condition
36 rendering the person incapable of refusal is deemed not to have withdrawn the
37 consent provided by subsection A of this section and the test or tests may be
38 administered, subject to section 4-244, paragraph 33 or section 28-1381,
39 28-1382 or 28-1383.

40 D. If a person under arrest refuses to submit to the test designated
41 by the law enforcement agency as provided in subsection A of this section:

42 1. The test shall not be given, except as provided in section 28-1388,
43 subsection E or pursuant to a search warrant.

44 2. The law enforcement officer directing the administration of the
45 test shall:

1 (a) File a certified report of the refusal with the department.

2 (b) On behalf of the department, serve an order of suspension on the
3 person that is effective fifteen days after the date the order is served.

4 (c) Require the immediate surrender of any license or permit to drive
5 that is issued by this state and that is in the possession or control of the
6 person.

7 (d) If the license or permit is not surrendered, state the reason why
8 it is not surrendered.

9 (e) If a valid license or permit is surrendered, issue a temporary
10 driving permit that is valid for fifteen days.

11 (f) Forward the certified report of refusal, a copy of the completed
12 notice of suspension, a copy of any completed temporary permit and any driver
13 license or permit taken into possession under this section to the department
14 within five days after the issuance of the notice of suspension.

15 E. The certified report is subject to the penalty for perjury as
16 prescribed by section 28-1561 and shall state all of the following:

17 1. The officer's reasonable grounds to believe that the arrested
18 person was driving or in actual physical control of a motor vehicle in this
19 state either:

20 (a) While under the influence of intoxicating liquor or drugs.

21 (b) If the person is under twenty-one years of age, with spirituous
22 liquor in the person's body.

23 2. The manner in which the person refused to submit to the test or
24 tests.

25 3. That the person was advised of the consequences of refusal.

26 F. On receipt of the certified report of refusal and a copy of the
27 order of suspension and on the effective date stated on the order, the
28 department shall enter the order of suspension on its records unless a
29 written request for a hearing as provided in this section has been filed by
30 the accused person. If the department receives only the certified report of
31 refusal, the department shall notify the person named in the report in
32 writing sent by mail that:

33 1. Fifteen days after the date of issuance of the notice the
34 department will suspend the person's license or permit, driving privilege or
35 nonresident driving privilege.

36 2. The department will provide an opportunity for a hearing if the
37 person requests a hearing in writing and the request is received by the
38 department within fifteen days after the notice is sent.

39 G. The order of suspension issued by a law enforcement officer or the
40 department under this section shall notify the person that:

41 1. The person may submit a written request for a hearing.

42 2. The request for a hearing must be received by the department within
43 fifteen days after the date of the notice or the order of suspension will
44 become final.

1 3. The affected person's license or permit to drive or right to apply
2 for a license or permit or any nonresident operating privilege will be
3 suspended for twelve months from that date or for two years from that date
4 for a second or subsequent refusal within a period of sixty months.

5 H. The order for suspension shall:

6 1. Be accompanied by printed forms that are ready to mail to the
7 department and that may be filled out and signed by the person to indicate
8 the person's desire for a hearing.

9 2. Advise the person that unless the person has surrendered any driver
10 license or permit issued by this state the person's hearing request will not
11 be accepted, except that the person may certify pursuant to section 28-3170
12 that the license or permit is lost or destroyed.

13 I. On the receipt of a request for a hearing, the department shall set
14 the hearing within thirty days in the county in which the person named in the
15 report resides unless the law enforcement agency filing the certified report
16 of refusal pursuant to subsection D of this section requests at the time of
17 its filing that the hearing be held in the county where the refusal occurred.

18 J. A timely request for a hearing stays the suspension until a hearing
19 is held, except that the department shall not return any surrendered license
20 or permit to the person but may issue temporary permits to drive that expire
21 no later than when the department has made its final decision. If the person
22 is a resident without a license or permit or has an expired license or
23 permit, the department may allow the person to apply for a license or permit.
24 If the department determines the person is otherwise entitled to the license
25 or permit, the department shall issue and retain a license or permit subject
26 to this section.

27 K. Hearings requested under this section shall be conducted in the
28 same manner and under the same conditions as provided in section
29 28-3306. For the purposes of this section, the scope of the hearing shall
30 include only the issues of whether:

31 1. A law enforcement officer had reasonable grounds to believe that
32 the person was driving or was in actual physical control of a motor vehicle
33 in this state either:

34 (a) While under the influence of intoxicating liquor or drugs.

35 (b) If the person is under twenty-one years of age, with spirituous
36 liquor in the person's body.

37 2. The person was placed under arrest.

38 3. The person refused to submit to the test.

39 4. The person was informed of the consequences of refusal.

40 L. If the department determines at the hearing to suspend the affected
41 person's privilege to operate a motor vehicle, the suspension provided in
42 this section is effective fifteen days after giving written notice of the
43 suspension, except that the department may issue or extend a temporary
44 license that expires on the effective date of the suspension. If the person
45 is a resident without a license or permit or has an expired license or permit

1 to operate a motor vehicle in this state, the department shall deny to the
2 person the issuance of a license or permit for a period of twelve months
3 after the order of suspension becomes effective or for a period of two years
4 after the order of suspension becomes effective for a second or subsequent
5 refusal within a period of sixty months.

6 M. If the suspension order is sustained after the hearing, a motion
7 for rehearing is not required. Within thirty days after a suspension order
8 is sustained, the affected person may file a petition in the superior court
9 to review the final order of suspension or denial by the department in the
10 same manner provided in section 28-3317. The court shall hear the review of
11 the final order of suspension or denial on an expedited basis.

12 N. If the suspension or determination that there should be a denial of
13 issuance is not sustained, the ruling is not admissible in and has no effect
14 on any administrative, civil or criminal court proceeding.

15 O. If it has been determined under the procedures of this section that
16 a nonresident's privilege to operate a motor vehicle in this state has been
17 suspended, the department shall give information in writing of the action
18 taken to the motor vehicle administrator of the state of the person's
19 residence and of any state in which the person has a license.

20 P. AFTER COMPLETING NOT LESS THAN NINETY CONSECUTIVE DAYS OF THE
21 PERIOD OF SUSPENSION REQUIRED BY THIS SECTION, A PERSON WHOSE DRIVING
22 PRIVILEGE IS SUSPENDED PURSUANT TO THIS SECTION MAY APPLY TO THE DEPARTMENT
23 FOR A SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE PURSUANT TO
24 SECTION 28-1401. UNLESS THE CERTIFIED IGNITION INTERLOCK PERIOD IS EXTENDED
25 BY THE DEPARTMENT PURSUANT TO SECTION 28-1402, A PERSON WHO IS ISSUED A
26 SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE AS PROVIDED IN THIS
27 SUBSECTION SHALL MAINTAIN A FUNCTIONING CERTIFIED IGNITION INTERLOCK DEVICE
28 IN COMPLIANCE WITH CHAPTER 4 OF THIS TITLE DURING THE REMAINING PERIOD OF THE
29 SUSPENSION PRESCRIBED BY THIS SECTION. THIS SUBSECTION DOES NOT APPLY TO A
30 PERSON WHOSE DRIVING PRIVILEGE IS SUSPENDED FOR A SECOND OR SUBSEQUENT
31 REFUSAL WITHIN A PERIOD OF SIXTY MONTHS OR A PERSON WHO WITHIN A PERIOD OF
32 SIXTY MONTHS HAS BEEN CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF
33 ARTICLE 3 OF THIS CHAPTER OR SECTION 4-244, PARAGRAPH 33 OR AN ACT IN ANOTHER
34 JURISDICTION THAT IF COMMITTED IN THIS STATE WOULD BE A VIOLATION OF ARTICLE
35 3 OF THIS CHAPTER OR SECTION 4-244, PARAGRAPH 33.

36 Sec. 4. Section 28-1383, Arizona Revised Statutes, is amended to read:

37 28-1383. Aggravated driving or actual physical control while
38 under the influence; violation; classification;
39 definition

40 A. A person is guilty of aggravated driving or actual physical control
41 while under the influence of intoxicating liquor or drugs if the person does
42 any of the following:

43 1. Commits a violation of section 28-1381, section 28-1382 or this
44 section while the person's driver license or privilege to drive is suspended,
45 canceled, revoked or refused or while a restriction is placed on the person's

1 driver license or privilege to drive as a result of violating section 28-1381
2 or 28-1382 or under section 28-1385.

3 2. Within a period of sixty months commits a third or subsequent
4 violation of section 28-1381, section 28-1382 or this section or is convicted
5 of a violation of section 28-1381, section 28-1382 or this section and has
6 previously been convicted of any combination of convictions of section
7 28-1381, section 28-1382 or this section or acts in another jurisdiction that
8 if committed in this state would be a violation of section 28-1381, section
9 28-1382 or this section.

10 3. While a person under fifteen years of age is in the vehicle,
11 commits a violation of either:

12 (a) Section 28-1381.

13 (b) Section 28-1382.

14 B. The dates of the commission of the offenses are the determining
15 factor in applying the sixty month provision provided in subsection A,
16 paragraph 2 of this section regardless of the sequence in which the offenses
17 were committed. For the purposes of this section, a third or subsequent
18 violation for which a conviction occurs does not include a conviction for an
19 offense arising out of the same series of acts.

20 C. The notice to a person of the suspension, cancellation, revocation
21 or refusal of a driver license or privilege to drive is effective as provided
22 in section 28-3318 or pursuant to the laws of the state issuing the license.

23 D. A person is not eligible for probation, pardon, commutation or
24 suspension of sentence or release on any other basis until the person has
25 served not less than four months in prison if the person is convicted under
26 either of the following:

27 1. Subsection A, paragraph 1 of this section.

28 2. Subsection A, paragraph 2 of this section and within a sixty month
29 period has been convicted of two prior violations of section 28-1381, section
30 28-1382 or this section, or any combination of those sections, or acts in
31 another jurisdiction that if committed in this state would be a violation of
32 section 28-1381, section 28-1382 or this section.

33 E. A person who is convicted under subsection A, paragraph 2 of this
34 section and who within a sixty month period has been convicted of three or
35 more prior violations of section 28-1381, section 28-1382 or this section, or
36 any combination of those sections, or acts in another jurisdiction that if
37 committed in this state would be a violation of section 28-1381, section
38 28-1382 or this section is not eligible for probation, pardon, commutation or
39 suspension of sentence or release on any other basis until the person has
40 served not less than eight months in prison.

41 ~~F. In addition to any other penalty provided by law, A person who is~~
42 ~~convicted under subsection A, paragraph 3, subdivision (a) of this section~~
43 ~~shall be sentenced to SERVE at least the minimum sentence TERM OF~~
44 ~~INCARCERATION required pursuant to section 28-1381. , except that if a~~
45 ~~person has been convicted of at least two prior violations of section~~

~~28-1381, section 28-1382 or this section, or any combination of those sections, or convicted of at least two prior acts in another jurisdiction that if committed in this state would be violations of section 28-1381, section 28-1382 or this section, or any combination of those sections, within a sixty month period, the person shall be sentenced to serve at least the minimum sentence required pursuant to this section.~~

~~G. In addition to any other penalty provided by law, A person who is convicted under subsection A, paragraph 3, subdivision (b) of this section shall be sentenced to SERVE at least the minimum sentence TERM OF INCARCERATION required pursuant to section 28-1382. , except that if a person has been convicted of at least two prior violations of section 28-1381, section 28-1382 or this section, or any combination of those sections, or convicted of at least two prior acts in another jurisdiction that if committed in this state would be a violation of section 28-1381, section 28-1382 or this section, or any combination of those sections, within a sixty month period, the person shall be sentenced to serve at least the minimum sentence required pursuant to this section.~~

H. A person who is convicted of a violation of this section shall attend and complete alcohol or other drug screening, education or treatment from an approved facility. If the person fails to comply with this subsection and is placed on probation, in addition to the provisions of section 13-901 the court may order that the person be incarcerated as a term of probation as follows:

1. For a person sentenced pursuant to subsection D of this section, for an individual period of not more than four months and a total period of not more than one year.

2. For a person sentenced pursuant to subsection E of this section, for an individual period of not more than eight months and a total period of not more than two years.

1. The time that a person spends in custody pursuant to subsection H of this section shall not be counted towards the sentence imposed if the person's probation is revoked and the person is sentenced to prison after revocation of probation.

J. ON A CONVICTION FOR A VIOLATION OF THIS SECTION, the court:

1. Shall report the conviction to the department. On receipt of the report, the department shall revoke the driving privilege of the person. The department shall not issue the person a new driver license within three years of the date of the conviction and, for a conviction of a violation of subsection A, paragraph 1 or 2 or paragraph 3, subdivision (b) of this section, shall require the person to equip any motor vehicle the person operates with a certified ignition interlock device pursuant to section 28-3319. In addition, the court may order the person to equip any motor vehicle the person operates with a certified ignition interlock device for more than twelve months beginning on the date of reinstatement of the person's driving privilege following a suspension or revocation or on the

1 date of the department's receipt of the report of conviction, whichever
2 occurs later. The person who operates a motor vehicle with a certified
3 ignition interlock device under this paragraph shall comply with article 5 of
4 this chapter.

5 2. In addition to any other penalty prescribed by law, shall order the
6 person to pay an additional assessment of two hundred fifty dollars. If the
7 conviction occurred in the superior court or a justice court, the court shall
8 transmit the monies received pursuant to this paragraph to the county
9 treasurer. If the conviction occurred in a municipal court, the court shall
10 transmit the monies received pursuant to this paragraph to the city
11 treasurer. The city or county treasurer shall transmit the monies received
12 to the state treasurer. The state treasurer shall deposit the monies
13 received in the driving under the influence abatement fund established by
14 section 28-1304. Any fine imposed for a violation of this section and any
15 assessments, restitution and incarceration costs shall be paid before the
16 assessment prescribed in this paragraph.

17 3. Shall order the person to pay a fine of not less than seven hundred
18 fifty dollars.

19 4. In addition to any other penalty prescribed by law, shall order the
20 person to pay an additional assessment of one thousand five hundred dollars
21 to be deposited by the state treasurer in the prison construction and
22 operations fund established by section 41-1651. This assessment is not
23 subject to any surcharge. If the conviction occurred in the superior court
24 or a justice court, the court shall transmit the assessed monies to the
25 county treasurer. If the conviction occurred in a municipal court, the court
26 shall transmit the assessed monies to the city treasurer. The city or county
27 treasurer shall transmit the monies received to the state treasurer.

28 K. AFTER COMPLETING THE PERIOD OF SUSPENSION REQUIRED BY SECTION
29 28-1385, A PERSON WHOSE DRIVING PRIVILEGE IS REVOKED FOR A VIOLATION OF
30 SUBSECTION A, PARAGRAPH 3 OF THIS SECTION MAY APPLY TO THE DEPARTMENT FOR A
31 SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE PURSUANT TO SECTION
32 28-1401.

33 ~~K.~~ L. Aggravated driving or actual physical control while under the
34 influence of intoxicating liquor or drugs committed under:

35 1. Subsection A, paragraph 1 or 2 of this section is a class 4 felony.

36 2. Subsection A, paragraph 3 of this section is a class 6 felony.

37 ~~L.~~ M. For the purposes of this section, "suspension, cancellation,
38 revocation or refusal" means any suspension, cancellation, revocation or
39 refusal.

1 Sec. 5. Title 28, chapter 4, Arizona Revised Statutes, is amended by
2 adding article 3.1, to read:

3 ARTICLE 3.1. SPECIAL IGNITION
4 INTERLOCK RESTRICTED DRIVER LICENSES

5 28-1401. Special ignition interlock restricted driver licenses;
6 application fee

7 A. A PERSON WHOSE CLASS D OR CLASS G LICENSE HAS BEEN SUSPENDED OR
8 REVOKED FOR A FIRST OFFENSE OF SECTION 28-1321 OR SECTION 28-1383, SUBSECTION
9 A, PARAGRAPH 3, MAY APPLY TO THE DEPARTMENT FOR A SPECIAL IGNITION INTERLOCK
10 RESTRICTED DRIVER LICENSE THAT ALLOWS A PERSON TO OPERATE A MOTOR VEHICLE
11 DURING THE PERIOD OF SUSPENSION OR REVOCATION SUBJECT TO THE RESTRICTIONS
12 PRESCRIBED IN SECTION 28-1402 AND THE CERTIFIED IGNITION INTERLOCK DEVICE
13 REQUIREMENTS PRESCRIBED IN ARTICLE 5 OF THIS CHAPTER IF THE PERSON'S
14 PRIVILEGE TO OPERATE A MOTOR VEHICLE HAS BEEN SUSPENDED OR REVOKED DUE TO AN
15 ALCOHOL RELATED OFFENSE PURSUANT TO EITHER OF THE FOLLOWING:

16 1. SECTION 28-1321, IF THE PERSON MEETS THE CRITERIA OF SECTION
17 28-1321, SUBSECTION P.

18 2. SECTION 28-1383, IF THE PERSON MEETS THE CRITERIA OF SECTION
19 28-1383, SUBSECTION K AND THE PERSON PRESENTS EVIDENCE THAT IS SATISFACTORY
20 TO THE DIRECTOR THAT SHOWS THAT THE PERSON HAS COMPLETED SCREENING AND
21 TREATMENT.

22 B. AN APPLICANT FOR A SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER
23 LICENSE SHALL PAY AN APPLICATION FEE IN AN AMOUNT TO BE DETERMINED BY THE
24 DIRECTOR.

25 C. THE DEPARTMENT SHALL ISSUE A SPECIAL IGNITION INTERLOCK RESTRICTED
26 DRIVER LICENSE DURING THE PERIOD OF A COURT ORDERED RESTRICTION PURSUANT TO
27 SECTIONS 28-3320 AND 28-3322 SUBJECT TO THE RESTRICTIONS PRESCRIBED IN
28 SECTION 28-1402 AND THE CERTIFIED IGNITION INTERLOCK REQUIREMENTS PRESCRIBED
29 IN ARTICLE 5 OF THIS CHAPTER.

30 D. IF THE DEPARTMENT ISSUES A SPECIAL IGNITION INTERLOCK RESTRICTED
31 DRIVER LICENSE, THE DEPARTMENT SHALL NOT DELETE A SUSPENSION OR REVOCATION
32 FROM ITS RECORDS.

33 E. THE GRANTING OF A SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER
34 LICENSE DOES NOT REDUCE OR ELIMINATE THE REQUIRED USE OF AN IGNITION
35 INTERLOCK DEVICE PURSUANT TO SECTION 28-3319.

36 28-1402. Issuance of special ignition interlock restricted
37 driver license; restrictions; extension

38 A. ON APPLICATION PURSUANT TO SECTION 28-1401, SUBSECTION A THE
39 DEPARTMENT MAY, AND PURSUANT TO SECTION 28-1401, SUBSECTION C THE DEPARTMENT
40 SHALL, ISSUE A SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE THAT ONLY
41 ALLOWS A PERSON WHOSE CLASS D OR CLASS G LICENSE HAS BEEN SUSPENDED OR
42 REVOKED FOR A FIRST OFFENSE OF SECTION 28-1321 OR SECTION 28 1383, SUBSECTION
43 A, PARAGRAPH 3, TO OPERATE A MOTOR VEHICLE THAT IS EQUIPPED WITH A
44 FUNCTIONING CERTIFIED IGNITION INTERLOCK DEVICE AND ONLY AS FOLLOWS:

1 1. BETWEEN THE PERSON'S PLACE OF EMPLOYMENT AND RESIDENCE DURING
2 SPECIFIED PERIODS OF TIME WHILE AT EMPLOYMENT.

3 2. BETWEEN THE PERSON'S PLACE OF RESIDENCE, THE PERSON'S PLACE OF
4 EMPLOYMENT AND THE PERSON'S SECONDARY OR POSTSECONDARY SCHOOL ACCORDING TO
5 THE PERSON'S EMPLOYMENT OR EDUCATIONAL SCHEDULE.

6 3. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND A TREATMENT OR
7 SCREENING FACILITY FOR SCHEDULED APPOINTMENTS.

8 4. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND THE OFFICE OF THE
9 PERSON'S PROBATION OFFICER FOR SCHEDULED APPOINTMENTS.

10 5. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND THE OFFICE OF A
11 PHYSICIAN OR OTHER HEALTH CARE PROFESSIONAL.

12 6. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND A CERTIFIED IGNITION
13 INTERLOCK DEVICE SERVICE FACILITY.

14 B. THE DEPARTMENT MAY ONLY ISSUE A SPECIAL IGNITION INTERLOCK
15 RESTRICTED DRIVER LICENSE TO AN APPLICANT WHO IS OTHERWISE QUALIFIED BY LAW.

16 C. IN THE ELEVENTH MONTH FOLLOWING THE INITIAL DATE OF INSTALLATION OF
17 A CERTIFIED IGNITION INTERLOCK DEVICE, AND EACH ELEVENTH MONTH THEREAFTER FOR
18 AS LONG AS THE PERSON MAINTAINS A FUNCTIONING CERTIFIED IGNITION INTERLOCK
19 DEVICE IN THE VEHICLE PURSUANT TO CHAPTER 4 OF THIS TITLE, EACH INSTALLER
20 SHALL ELECTRONICALLY PROVIDE IN A FORM PRESCRIBED BY THE DEPARTMENT THE
21 FOLLOWING INFORMATION RECORDED BY THE CERTIFIED IGNITION INTERLOCK DEVICE:

22 1. ANY TAMPERING OR CIRCUMVENTION.

23 2. ANY FAILURE TO PROVIDE PROOF OF COMPLIANCE OR INSPECTION OF THE
24 CERTIFIED IGNITION INTERLOCK DEVICE AS PRESCRIBED IN SECTION 28-1461.

25 3. ANY ATTEMPTS TO OPERATE THE VEHICLE WITH AN ALCOHOL CONCENTRATION
26 EXCEEDING THE PRESUMPTIVE LIMIT AS PRESCRIBED IN SECTION 28-1381, SUBSECTION
27 G, PARAGRAPH 3, OR IF THE PERSON IS UNDER TWENTY-ONE YEARS OF AGE, ATTEMPTS
28 TO OPERATE THE VEHICLE WITH ANY SPIRITUOUS LIQUOR IN THE PERSON'S BODY.

29 D. THE DEPARTMENT MAY EXTEND THE SPECIAL IGNITION INTERLOCK RESTRICTED
30 DRIVER LICENSE AND THE CERTIFIED IGNITION INTERLOCK DEVICE PERIOD IF THE
31 DEPARTMENT HAS REASONABLE GROUNDS TO BELIEVE THAT ANY OF THE FOLLOWING
32 APPLIES:

33 1. THE PERSON TAMPERED WITH THE CERTIFIED IGNITION INTERLOCK DEVICE.

34 2. THE PERSON ATTEMPTED TO OPERATE THE VEHICLE WITH AN ALCOHOL
35 CONCENTRATION EXCEEDING THE PRESUMPTIVE LIMIT AS PRESCRIBED IN SECTION
36 28-1381, SUBSECTION G, PARAGRAPH 3, OR IF THE PERSON IS UNDER TWENTY-ONE
37 YEARS OF AGE, THE PERSON ATTEMPTED TO OPERATE THE VEHICLE WITH ANY SPIRITUOUS
38 LIQUOR IN THE PERSON'S BODY THREE OR MORE TIMES DURING THE PERIOD OF LICENSE
39 RESTRICTION OR LIMITATION.

40 3. THE PERSON FAILED TO PROVIDE PROOF OF COMPLIANCE OR INSPECTION AS
41 PRESCRIBED IN SECTION 28-1461.

42 E. IF THE SPECIAL IGNITION INTERLOCK RESTRICTED LICENSE IS EXTENDED
43 PURSUANT TO SUBSECTION D OF THIS SECTION, THE LIMITATIONS PRESCRIBED IN
44 SECTIONS 28-1381, 28-1382, 28-1383 AND 28-3319 DO NOT BEGIN UNTIL THE
45 RESTRICTIVE PERIOD OF THE LICENSE ENDS.

1 F. EXCEPT AS PROVIDED IN SECTION 28-1463, IF THE DEPARTMENT SUSPENDS,
2 REVOKES, CANCELS OR OTHERWISE RESCINDS A PERSON'S SPECIAL IGNITION INTERLOCK
3 RESTRICTED LICENSE OR PRIVILEGE FOR ANY REASON, THE DEPARTMENT SHALL NOT
4 ISSUE A NEW LICENSE OR REINSTATE THE SPECIAL IGNITION INTERLOCK RESTRICTED
5 DRIVER LICENSE DURING THE PRESCRIBED PERIOD OF SUSPENSION OR REVOCATION OR
6 WHILE THE PERSON IS OTHERWISE INELIGIBLE TO RECEIVE A LICENSE.

7 28-1403. Extension of interlock restricted licenses; hearing;
8 scope

9 A. A PERSON WHOSE DRIVER LICENSE RESTRICTION IS EXTENDED PURSUANT TO
10 SECTION 28-1402 MAY SUBMIT TO THE DEPARTMENT A WRITTEN REQUEST FOR A HEARING.
11 THE WRITTEN REQUEST MUST BE RECEIVED BY THE DEPARTMENT WITHIN FIFTEEN DAYS
12 AFTER THE DATE OF THE ORDER OF EXTENSION OF THE RESTRICTION. ON RECEIPT OF A
13 REQUEST FOR A HEARING, A HEARING SHALL BE HELD WITHIN THIRTY DAYS.

14 B. HEARINGS REQUESTED PURSUANT TO THIS SECTION SHALL BE CONDUCTED IN
15 THE SAME MANNER AND UNDER THE SAME CONDITIONS AS PROVIDED IN SECTION 28-3306.
16 FOR THE PURPOSES OF THIS SECTION, THE SCOPE OF THE HEARING SHALL INCLUDE ONLY
17 THE FOLLOWING ISSUES:

18 1. WHETHER THE PERSON WAS ISSUED A SPECIAL IGNITION INTERLOCK
19 RESTRICTED DRIVER LICENSE.

20 2. WHETHER THE PERSON TAMPERED WITH THE CERTIFIED IGNITION INTERLOCK
21 DEVICE.

22 3. WHETHER THE PERSON ATTEMPTED TO OPERATE THE VEHICLE WITH AN ALCOHOL
23 CONCENTRATION EXCEEDING THE PRESUMPTIVE LIMIT AS PRESCRIBED IN SECTION
24 28-1381, SUBSECTION G, PARAGRAPH 3, THREE OR MORE TIMES DURING THE PERIOD OF
25 LICENSE RESTRICTION OR LIMITATION OR IF THE PERSON IS UNDER TWENTY-ONE YEARS
26 OF AGE, WHETHER THE PERSON ATTEMPTED TO OPERATE THE VEHICLE WITH ANY
27 SPIRITUOUS LIQUOR IN THE PERSON'S BODY THREE OR MORE TIMES DURING THE PERIOD
28 OF LICENSE RESTRICTION OR LIMITATION.

29 4. WHETHER THE PERSON SUBMITTED PROOF OF COMPLIANCE OR INSPECTION AS
30 PRESCRIBED IN SECTION 28-1461.

31 Sec. 6. Section 28-1441, Arizona Revised Statutes, is amended to read:
32 28-1441. Driving under the influence; records

33 A. The court shall maintain and make accessible to the general public
34 all records regarding the disposition of cases in which a person is charged
35 with a violation of section 28-1381, 28-1382 or 28-1383. The court shall
36 include in these records an explanation of its reasons for accepting any plea
37 agreement or dismissing any charge of a violation of section 28-1381, 28-1382
38 or 28-1383.

39 B. AS DETERMINED TO BE NECESSARY BY THE DIRECTOR, THE DEPARTMENT SHALL
40 MAINTAIN AND MAKE ACCESSIBLE TO CERTIFIED IGNITION INTERLOCK INSTALLERS
41 LIMITED MOTOR VEHICLE AND DRIVER RECORDS INFORMATION FOR THE PURPOSE OF
42 DETERMINING THE ELIGIBILITY OF A PERSON REQUESTING INSTALLATION OF A
43 CERTIFIED IGNITION INTERLOCK DEVICE. THE DEPARTMENT SHALL NOT CHARGE A FEE
44 FOR PROVIDING THIS INFORMATION TO THE IGNITION INTERLOCK INSTALLER.

1 Sec. 7. Section 28-1461, Arizona Revised Statutes, is amended to read:

2 28-1461. Use of certified ignition interlock devices

3 A. If a person's driving privilege is limited pursuant to section
4 28-1381, 28-1382, 28-1383 or 28-3319 OR RESTRICTED PURSUANT TO SECTION
5 28-1402:

6 1. The person shall:

7 (a) Pay the costs for installation and maintenance of the certified
8 ignition interlock device.

9 (b) Provide proof to the department of installation of a functioning
10 certified ignition interlock device in each motor vehicle operated by the
11 person.

12 (c) Provide proof of compliance to the department at least once every
13 ninety days during the period the person is ordered to use an ignition
14 interlock device.

15 (d) Provide proof of inspection of the certified ignition interlock
16 device for accurate operation and the results of the inspection to the
17 department at least once every ninety days during the period the person is
18 ordered to use an ignition interlock device.

19 2. The department shall not reinstate the person's driving privilege
20 OR ISSUE A SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE until the
21 person has installed a functioning certified ignition interlock device in
22 each motor vehicle operated by the person and has provided proof of
23 installation to the department.

24 ~~3. If the person's driving privilege has been reinstated, but the~~
25 ~~person's driving privilege is limited pursuant to sections 28-1381, 28-1382,~~
26 ~~28-1383 or, 28-3319, the person shall provide proof to the department of~~
27 ~~installation of a functioning certified ignition interlock device within~~
28 ~~thirty days from the date the department notifies the person of the ignition~~
29 ~~interlock requirement.~~

30 B. The department shall make a notation on the driving record of a
31 person whose driving privilege is limited pursuant to section 28-1381,
32 28-1382, 28-1383 or 28-3319 OR RESTRICTED PURSUANT TO SECTION 28-1402 that
33 states that the person shall not operate a motor vehicle unless it is
34 equipped with a certified ignition interlock device.

35 Sec. 8. Section 28-1463, Arizona Revised Statutes, is amended to read:

36 28-1463. Proof of compliance; suspension; hearings

37 A. If a person whose driving privilege is limited pursuant to section
38 28-1381, 28-1382, 28-1383 or 28-3319 OR RESTRICTED PURSUANT TO SECTION
39 28-1402 does not submit proof of compliance to the department as prescribed
40 in section 28-1461, the department shall suspend the person's driving
41 privilege until proof of compliance is submitted to the department. UNLESS A
42 DIFFERENT TIME PERIOD IS SPECIFIED, the department shall require use of the
43 certified ignition interlock device for one year from the date the person
44 submits proof of compliance as prescribed in section 28-1461. If a person

1 does not request a hearing pursuant to subsection B of this section, the
2 department shall immediately suspend the person's driver license.

3 B. A person whose driver license is suspended pursuant to this section
4 may submit a written request for a hearing. The written request must be
5 received by the department within fifteen days after the date of the order of
6 suspension. On receipt of a request for a hearing, a hearing shall be held
7 within thirty days.

8 C. A timely request for a hearing stays the suspension until a hearing
9 is held, except that the department shall not return any surrendered driver
10 license or permit to the person but may issue temporary permits to drive that
11 expire no later than when the department has made its final decision.

12 D. Hearings requested pursuant to this section shall be conducted in
13 the same manner and under the same conditions as provided in section
14 28-3306. For the purposes of this section, the scope of the hearing shall
15 include only the following issues:

16 1. Whether the person was ordered or required to equip a motor vehicle
17 with an ignition interlock device pursuant to article 3 OR 3.1 of this
18 chapter or section 28-3319.

19 2. Whether the person submitted proof of compliance or inspection
20 pursuant to section 28-1461.

21 Sec. 9. Section 28-1464, Arizona Revised Statutes, is amended to read:

22 28-1464. Ignition interlock devices; violations;
23 classification; definition

24 A. A person whose driving privilege is limited pursuant to section
25 28-1381, 28-1382, 28-1383 or 28-3319 OR RESTRICTED PURSUANT TO SECTION
26 28-1402 and who is required to operate a motor vehicle owned by the person's
27 employer in the course and scope of the person's employment may operate that
28 motor vehicle without the installation of a certified ignition interlock
29 device if the person notifies the person's employer that the person, in
30 conjunction with the person's sentence OR IF THE PERSON HAS BEEN ISSUED A
31 SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE PURSUANT TO SECTION
32 28-1402, has specific requirements in order to operate a motor vehicle and
33 the nature of the requirements and the person has proof of the employer's
34 notification in the person's possession while operating the employer's motor
35 vehicle for normal business. For the purposes of this subsection, a motor
36 vehicle that is partly or entirely owned or controlled by the person whose
37 driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or
38 28-3319 OR RESTRICTED PURSUANT TO SECTION 28-1402 is not a motor vehicle that
39 is owned by an employer.

40 B. Except in cases of a substantial emergency, a person shall not
41 knowingly rent, lease or lend a motor vehicle to a person whose driving
42 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319
43 OR RESTRICTED PURSUANT TO SECTION 28-1402 unless the motor vehicle is
44 equipped with a functioning certified ignition interlock device.

1 C. A person whose driving privilege is limited pursuant to section
2 28-1381, 28-1382, 28-1383 or 28-3319 OR RESTRICTED PURSUANT TO SECTION
3 28-1402 and who rents, leases or borrows a motor vehicle from another person
4 shall notify the person who rents, leases or lends the motor vehicle to the
5 person that the person has specific requirements for the operation of the
6 motor vehicle and the nature of the requirements.

7 D. During any period when a person whose driving privilege is limited
8 pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319 OR RESTRICTED
9 PURSUANT TO SECTION 28-1402 is required to operate only a motor vehicle that
10 is equipped with a certified ignition interlock device, the person shall not
11 request or permit any other person to breathe into the ignition interlock
12 device or start a motor vehicle equipped with an ignition interlock device
13 for the purpose of providing the person with an operable motor vehicle.

14 E. A person shall not breathe into an ignition interlock device or
15 start a motor vehicle equipped with an ignition interlock device for the
16 purpose of providing an operable motor vehicle to a person whose driving
17 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319
18 OR RESTRICTED PURSUANT TO SECTION 28-1402.

19 F. A person whose driving privilege is limited pursuant to section
20 28-1381, 28-1382, 28-1383 or 28-3319 OR RESTRICTED PURSUANT TO SECTION
21 28-1402 shall not tamper with or circumvent the operation of an ignition
22 interlock device.

23 G. A person who is not a manufacturer's authorized installer or an
24 agent of a manufacturer's authorized installer and who is not a person whose
25 driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or
26 28-3319 OR RESTRICTED PURSUANT TO SECTION 28-1402 shall not tamper with or
27 circumvent the operation of an ignition interlock device.

28 H. Except as provided in subsection A of this section or in cases of
29 substantial emergency, a person whose driving privilege is limited pursuant
30 to section 28-1381, 28-1382, 28-1383 or 28-3319 OR RESTRICTED PURSUANT TO
31 SECTION 28-1402 shall not operate a motor vehicle without a functioning
32 certified ignition interlock device during the APPLICABLE time period.
33 ~~prescribed in section 28-3319 or by a court pursuant to section 28-1381,~~
34 ~~28-1382 or 28-1383.~~

35 I. IF THE IGNITION INTERLOCK DEVICE IS REMOVED FROM A VEHICLE BY AN
36 INSTALLER, THE INSTALLER SHALL ELECTRONICALLY NOTIFY THE DEPARTMENT IN A FORM
37 PRESCRIBED BY THE DEPARTMENT THAT THE IGNITION INTERLOCK DEVICE HAS BEEN
38 REMOVED FROM THE VEHICLE.

39 ~~IF THE PERSON DOES NOT PROVIDE EVIDENCE TO THE DEPARTMENT WITHIN~~
40 ~~SEVENTY-TWO HOURS THAT THE PERSON HAS INSTALLED A FUNCTIONING CERTIFIED~~
41 ~~IGNITION INTERLOCK DEVICE IN EACH VEHICLE OPERATED BY THE PERSON AND HAS~~
42 ~~PROVIDED PROOF OF INSTALLATION TO THE DEPARTMENT, THE DEPARTMENT SHALL~~
43 ~~SUSPEND THE SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE OR PRIVILEGE~~
44 ~~AS PRESCRIBED IN SECTION 28-1463.~~

1 ~~I.~~ K. A person who violates this section is guilty of a class 1
2 misdemeanor. Additionally, if a person is convicted of violating subsection
3 A, C, D, F or H of this section, the department shall extend the duration of
4 the certified ignition interlock device requirement for not more than one
5 year.

6 ~~J.~~ L. For the purposes of this section, "substantial emergency" means
7 that a person other than the person whose driving privilege is limited
8 pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319 OR RESTRICTED
9 PURSUANT TO SECTION 28-1402 is not reasonably available to drive in response
10 to an emergency.

11 Sec. 10. Section 28-3159, Arizona Revised Statutes, is amended to
12 read:

13 28-3159. Restricted licenses

14 A. With good cause, the department may issue the following restricted
15 driver licenses:

16 1. A driver license with any of the following:

17 (a) Restrictions suitable to the licensee's driving ability for the
18 type of motor vehicle or special mechanical control devices required on a
19 motor vehicle that the licensee may operate.

20 (b) Restrictions suitable to the licensee's ability to drive a motor
21 vehicle in areas, at locations or on highways or during certain times.

22 (c) Other restrictions as the department determines appropriate to
23 ensure the safe operation of a motor vehicle by the licensee.

24 2. A class A, B or C driver license that restricts the driver from
25 operating:

26 (a) A commercial motor vehicle equipped with air brakes, if the
27 applicant either fails the air brake component of the knowledge examination
28 or performs the skills test in a vehicle that is not equipped with air
29 brakes.

30 (b) A vehicle in interstate commerce, if the applicant is not subject
31 to 49 Code of Federal Regulations part 391.

32 (c) A motor vehicle for the purposes of interstate commerce, if an
33 applicant for a class A, B or C license is at least eighteen years of age.

34 3. A class M license that restricts the driver from driving a vehicle
35 other than a motorcycle, motor driven cycle or moped with a maximum piston
36 displacement of one hundred cubic centimeters or less, if the applicant
37 performs the driving examination with a motorcycle, motor driven cycle or
38 moped with a maximum piston displacement of one hundred cubic centimeters or
39 less.

40 4. A SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE PURSUANT TO
41 CHAPTER 4, ARTICLE 3.1 OF THIS TITLE.

42 B. The department may either issue a special restricted license or
43 display the restrictions on the usual driver license form.

1 Sec. 11. Section 28-3166, Arizona Revised Statutes, is amended to
2 read:

3 28-3166. Driver license content and application; marked
4 licenses

5 A. The department shall issue a driver license to a qualified
6 applicant. The driver license shall contain a distinguishing number assigned
7 to the licensee, the license class, any endorsements, the licensee's full
8 name, date of birth and residence address, a brief description of the
9 licensee and either a facsimile of the signature of the licensee or a space
10 on which the licensee is required to write the licensee's usual signature
11 with pen and ink. A driver license is not valid until it is signed by the
12 licensee. On request of an applicant, the department shall allow the
13 applicant to provide on the driver license a post office box address that is
14 regularly used by the applicant and that is located in the county in which
15 the applicant resides.

16 B. An application for a driver license and the driver license issued
17 shall contain the photo image of the applicant or licensee. The department
18 shall use a process in the issuance of driver licenses that prohibits as
19 nearly as possible the ability to alter or reproduce the license or that
20 prohibits the ability to superimpose a photo image on the license without
21 ready detection. The department shall process driver licenses and photo
22 images in color. This subsection does not apply to a driver license that is
23 renewed by mail pursuant to section 28-3172.

24 C. An applicant who is sixteen or older but under twenty-four years of
25 age shall provide the department with satisfactory proof of the applicant's
26 legal name and date of birth.

27 D. If a person is qualified for a driver license and is under the
28 legal drinking age, the department shall issue a license that is marked by
29 color, code or design to immediately distinguish it from a license issued to
30 a person of legal drinking age. The department shall indicate on the driver
31 license issued pursuant to this subsection the year in which the person will
32 attain the legal drinking age.

33 E. THE DEPARTMENT SHALL MARK A SPECIAL IGNITION INTERLOCK RESTRICTED
34 DRIVER LICENSE ISSUED PURSUANT TO CHAPTER 4, ARTICLE 3.1 OF THIS TITLE BY
35 COLOR, CODE OR DESIGN TO IMMEDIATELY DISTINGUISH IT FROM OTHER LICENSES
36 ISSUED BY THE DEPARTMENT.

37 F. IF A PERSON IS QUALIFIED FOR A DRIVER LICENSE BUT IS SUBJECT TO THE
38 CERTIFIED IGNITION INTERLOCK DEVICE LIMITATIONS PRESCRIBED IN SECTION
39 28-1381, 28-1382, 28-1383 OR 28-3319, THE DEPARTMENT SHALL ISSUE A LICENSE
40 THAT IS MARKED BY COLOR, CODE OR DESIGN TO IMMEDIATELY DISTINGUISH IT FROM
41 OTHER LICENSES ISSUED BY THE DEPARTMENT.

42 E. G. The department shall not include information in the magnetic
43 stripe and bar code of a driver license other than information that the
44 department is authorized to obtain and place on a driver license pursuant to
45 this article.

1 Sec. 12. Section 28-3319, Arizona Revised Statutes, is amended to
2 read:

3 28-3319. Action after license suspension, revocation or denial
4 for driving under the influence or refusal of test;
5 ignition interlock device requirement; definition

6 A. If pursuant to section 28-1321, 28-1381, 28-1382, ~~or~~ 28-1383,
7 28-3320 OR 28-3322 the license of a driver or the driving privilege of a
8 nonresident is suspended or revoked, the department shall not terminate the
9 suspension or revocation OR ISSUE A SPECIAL IGNITION INTERLOCK RESTRICTED
10 DRIVER LICENSE, IF APPLICABLE, PURSUANT TO CHAPTER 4, ARTICLE 3.1 OF THIS
11 TITLE until the person provides proof of financial responsibility pursuant to
12 chapter 9, article 3 of this title.

13 B. If pursuant to section 28-1321, 28-1381, 28-1382, ~~or~~ 28-1383,
14 28-3320 OR 28-3322, an unlicensed resident is denied a license or permit to
15 operate a motor vehicle, the department shall not issue a license or permit
16 until the person provides proof of financial responsibility pursuant to
17 chapter 9, article 3 of this title.

18 C. If a person whose license or driving privilege is suspended or
19 revoked pursuant to section 28-1321, 28-1381, 28-1382 or 28-1383 is ordered,
20 pursuant to section 28-1381, 28-1382 or 28-1383, to attend alcohol or other
21 drug screening, education or treatment, the department shall not either:

22 1. Terminate the suspension OR ISSUE A SPECIAL IGNITION INTERLOCK
23 RESTRICTED DRIVER LICENSE, IF APPLICABLE, PURSUANT TO CHAPTER 4, ARTICLE 3.1
24 OF THIS TITLE until the person provides proof from the treatment facility
25 that the person has completed or is participating satisfactorily in alcohol
26 or other drug screening, education or treatment.

27 2. Issue a new license OR A SPECIAL IGNITION INTERLOCK RESTRICTED
28 DRIVER LICENSE, IF APPLICABLE, PURSUANT TO CHAPTER 4, ARTICLE 3.1 OF THIS
29 TITLE to operate a motor vehicle after the revocation until the person
30 provides proof from the facility that the person has completed the court
31 ordered program.

32 D. On receipt of a report of conviction from a court, the department
33 shall require any motor vehicle the convicted person operates to be equipped
34 with a functioning certified ignition interlock device and the convicted
35 person to meet the requirements prescribed in section 28-1461 for twelve
36 months if any of the following applies:

37 1. The department determines that within a period of sixty months a
38 person is convicted of a second or subsequent violation of section 28-1381
39 with a prior conviction of a violation of section 28-1381 or 28-1382 or an
40 act in another jurisdiction that if committed in this state would be a
41 violation of section 28-1381 or 28-1382.

42 2. The conviction is for a violation of section 28-1382.

43 3. The conviction is for a violation of section 28-1383, subsection A,
44 paragraph 1 or 2 or paragraph 3, subdivision (b).

1 E. The twelve month period prescribed in subsection D of this section
2 begins on the date of reinstatement of the person's driving privilege
3 following a suspension or revocation or on the date of the department's
4 receipt of the report of conviction, whichever occurs later.

5 F. A person who is required to equip a motor vehicle with a certified
6 ignition interlock device pursuant to subsection D of this section shall
7 comply with chapter 4, article 5 of this title.

8 G. For the purposes of this section, "certified ignition interlock
9 device" has the same meaning prescribed in section 28-1301.

10 Sec. 13. Section 28-3320, Arizona Revised Statutes, is amended to
11 read:

12 28-3320. Suspension of license for persons under eighteen years
13 of age; notice; definition

14 A. In addition to the grounds for mandatory SUSPENSION OR revocation
15 provided for in chapters 3, 4 and 5 of this title, the department shall
16 immediately suspend the driver license or privilege to drive or refuse to
17 issue a driver license or privilege to drive of a person who commits an
18 offense while under eighteen years of age as follows:

19 1. For a period of two years on receiving the record of the person's
20 conviction for a violation of section 4-244, paragraph 33, section 28-1381 or
21 section 28-1382.

22 2. For a period of three years on receiving the record of the person's
23 conviction for a violation of section 28-1383.

24 3. Until the person's eighteenth birthday on receiving the record of
25 the person's conviction for a violation of section 13-1602, subsection A,
26 paragraph 1 or section 13-1604, subsection A involving the damage or
27 disfigurement of property by graffiti.

28 4. Until the person's eighteenth birthday on receiving the record of
29 the person's conviction of criminal damage pursuant to section 13-1602,
30 subsection A, paragraph 5 or a violation of a city or town ordinance that
31 prohibits the type of criminal action prescribed in section 13-1602,
32 subsection A, paragraph 5.

33 5. Until the person's eighteenth birthday on receiving the record of
34 the person's conviction for a violation of any statute or ordinance involving
35 the purchase or possession of materials used for graffiti.

36 6. Until the person's eighteenth birthday on receiving the record of
37 the person's conviction for a violation of any provision of title 13,
38 chapter 34.

39 7. Until the person's eighteenth birthday or for a period of two years
40 on receiving the record of the person's conviction for a second or subsequent
41 violation of section 4-244, paragraph 9, if ordered by the court.

42 8. Until the person's eighteenth birthday on receiving the record of
43 the person's conviction of theft of a motor vehicle pursuant to section
44 13-1802, unlawful use of means of transportation pursuant to section 13-1803
45 or theft of means of transportation pursuant to section 13-1811.

1 B. If ordered by the court, the department shall restrict the person's
2 privilege to drive between the person's home, school and place of employment
3 during specified periods of time according to the person's school and
4 employment schedule.

5 C. IF A PERSON COMMITS AN OFFENSE PRESCRIBED IN SUBSECTION A,
6 PARAGRAPH 1 OF THIS SECTION AND THE PERSON'S PRIVILEGE TO DRIVE IS RESTRICTED
7 AS PRESCRIBED IN SUBSECTION B OF THIS SECTION, THE DEPARTMENT SHALL ISSUE A
8 SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE TO THE PERSON PURSUANT
9 TO SECTION 28-1401.

10 ~~C.~~ D. For the purposes of this section, "conviction" means a final
11 conviction or judgment, including an order of the juvenile court finding that
12 a juvenile violated any provision of this title or committed a delinquent act
13 that if committed by an adult would constitute a criminal offense.

14 Sec. 14. Section 28-3322, Arizona Revised Statutes, is amended to
15 read:

16 28-3322. Suspension of license for persons eighteen, nineteen
17 and twenty years of age; definition

18 A. In addition to the grounds for mandatory SUSPENSION OR revocation
19 provided for in chapters 3, 4 and 5 of this title, the department shall
20 immediately suspend the driver license or privilege to drive or refuse to
21 issue a driver license or privilege to drive of a person who commits a
22 violation of section 4-244, paragraph 33 while the person is eighteen,
23 nineteen or twenty years of age on receipt of the record of the person's
24 conviction for a violation of section 4-244, paragraph 33 for a period of two
25 years.

26 B. If ordered by the court, the department shall restrict the person's
27 privilege to drive between the person's home, school and place of employment
28 during specified periods of time according to the person's school and
29 employment schedule.

30 C. IF A PERSON'S PRIVILEGE TO DRIVE IS RESTRICTED AS PRESCRIBED IN
31 SUBSECTION B OF THIS SECTION, THE DEPARTMENT SHALL ISSUE A SPECIAL IGNITION
32 INTERLOCK RESTRICTED DRIVER LICENSE TO THE PERSON PURSUANT TO SECTION
33 28-1401.

34 ~~C.~~ D. For the purposes of this section, "conviction" means a final
35 conviction or judgment, including an order of the juvenile court finding that
36 a juvenile violated any provision of this title or committed a delinquent act
37 that if committed by an adult would constitute a criminal offense.

38 Sec. 15. Appropriation

39 Notwithstanding section 28-1304, Arizona Revised Statutes, the sum of
40 \$442,000 and 3 FTEs are appropriated from the driving under the influence
41 abatement fund established in section 28-1304, Arizona Revised Statutes, in
42 fiscal year 2005-2006 to the Arizona department of transportation for the
43 purposes provided in this act.

1 Sec. 16. Applicability

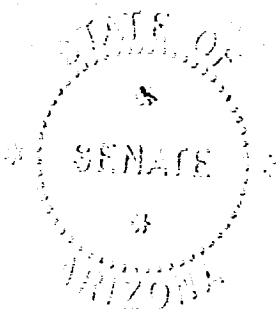
2 This act does not apply to any revocation or suspension imposed before
3 the effective date of this act. The terms and requirements of any suspension
4 or revocation apply as provided by the statute in force at the time the
5 offense was committed.

6 Sec. 17. Effective date

7 This act is effective from and after January 31, 2006.

APPROVED BY THE GOVERNOR MAY 20, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2005.



Passed the House April 13, 20 05

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate March 15, 20 05.

by the following vote: 29 Ayes,

1 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

This Bill was received by the Governor this

This Bill was received by the Governor this

day of _____, 20____.

at o'clock M.

Secretary to the Governor

Approved this _____ day of _____

_____ , 20__ ,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

~~This Bill was received by the Secretary of State~~

this day of , 20 ,

at _____ o'clock _____ M.


Secretary of State

S.B. 1240

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 11, 2005,
by the following vote: 48 Ayes,


4 Nays, 8 Not Voting


Speaker of the House
Pro Tempore
Norman L. Moore
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 10, 2005,
by the following vote: 25 Ayes,

0 Nays, 5 Not Voting


President of the Senate
Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 12th day of May, 20 05

at 12:45 o'clock P. M.


Secretary to the Governor

Approved this 20 day of

May, 20 05,

at 9:30 o'clock A. M.


Governor of Arizona

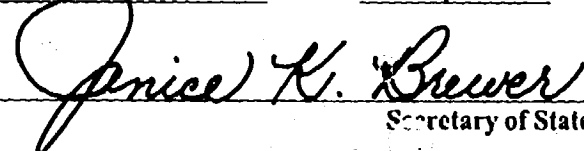
S.B. 1240

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of May, 20 05

at 3:03 o'clock P. M.


Secretary of State